

# UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN  
814 THEODORE LEVIN UNITED STATES COURTHOUSE  
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## **NOTICE OF AMENDMENTS TO LOCAL RULES**

On February 1, 2010, the Judges of the United States District Court for the Eastern District of Michigan approved amendments to the following local rules, effective March 1, 2010:

- LR 5.1, Filing of Papers
- LR 5.2, Service of Non-Dispositive and Dispositive Orders; Stipulations and Orders
- LR 7.1, Motion Practice
- LR 58.1, Procedure for Entry of Judgments and Orders
- LR 72.1, United States Magistrate Judges
- LR 73.1, Special Designation to Exercise Civil Consent Authority
- LR 77.2, Presiding Judge
- LR 83.20, Attorney Admission
- LR 83.22, Attorney Discipline
- LR E.1, Actions in Rem and Quasi in Rem

Pursuant to Fed. R. Civ. P. 83, proposed amendments to these LR's were previously published for comment.

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### **LR 5.1 Filing of Papers**

**(a) Papers Presented for Filing.** Under LR 5.1.1, unless specified otherwise in the ECF Policies and Procedures (Appendix ECF to these rules) or by court order, all papers must be filed electronically.

**(1) Required Information.** All papers presented for filing must include:

- (A) the name of the court,
- (B) the title and number of the case,
- (C) the name or nature of the paper in sufficient detail for identification,
- (D) the name of the district judge and magistrate judge to whom the case is assigned, and

(E) the following contact information:

(i) For an attorney: Name, office address, e-mail address, telephone number, and state bar identification number.

(ii) For a party without counsel: Name, address, e-mail address, and telephone number.

**(2) Format.** All papers must be on 8 ½ x 11 inch white paper of good quality, plainly typewritten, printed, or prepared by a clearly legible duplication process, and double-spaced, except for quoted material and footnotes. Margins must be at least one inch on the top, sides, and bottom. Each page must be numbered consecutively. This subsection does not apply to exhibits submitted for filing and documents filed in removed actions before removal from the state courts.

**(3) Type Size.** Except for standard preprinted forms that are in general use, type size of all text and footnotes must be no smaller than 10 characters per inch (non-proportional) or 12 point (proportional).

**(b) Number of Copies Required.**

**(1) Papers Filed Electronically.** Attorneys and parties without counsel should refer to the court's ECF Policies and Procedures and the court's website to determine those papers that each judge requests be provided as a judge's copy.

**(2) Papers Not Filed Electronically.** All papers not filed electronically with the clerk must include an original and one copy. The copy should be clearly marked "JUDGE'S COPY."

**(c) Number of Copies Required for a Three-Judge Court.** In any action or proceeding in which a three-judge court is requested, parties not filing electronically must file an original and three copies of papers until it is determined either that a three-judge court will not be convened or that the three-judge court has been convened and dissolved and the case remanded to a single judge. The court may allow fewer copies.

**(d) Exhibits.**

**(1) Filed Electronically.** Exhibits filed electronically must comply with the court's ECF Policies and Procedures.

**(2) Not Filed Electronically.** Bulky exhibits must be securely bound or fastened and clearly marked with the case number and the name of the judge to whom the case is assigned.

**COMMENT: \*\*\***

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Counsel and parties not filing electronically are advised that the handling and storage of documents are facilitated if they are received flat and without folds.

Under LR 5.1.1, the court may excuse a party from electronic filing on motion for good cause shown.

Attempts to circumvent the LR in any way may be considered an abusive practice which may result in papers being stricken as well as sanctions being imposed under LR 11.1.

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**LR 5.2      Service of Non-Dispositive and Dispositive Orders; Stipulations and Orders**

**(a) Electronic Filing.** The ECF Policies and Procedures (Appendix ECF to these rules) govern the filing and service of orders and proposed orders electronically.

**(b) Service of Non-Dispositive Orders.** Unless the court directs otherwise, the clerk will send the movant seeking a non-dispositive order a copy of the signed order. Within 14 days of the date of the order, unless the judge directs otherwise, the movant must serve, in accordance with Fed. R. Civ. P. 5, copies of the order on all other parties and other persons entitled to service of the order and promptly file a proof of service.

**(c) Stipulations and Orders; Service of Orders.** The person initiating a stipulation and proposing an order must submit a self-addressed stamped envelope and serve copies of the order on all other parties and other persons entitled to service of the order within 14 days of the date of the order, unless the judge directs otherwise. No proof of service is required.

**(d) Service of Dispositive Orders.** The preparer of a dispositive order, other than a stipulated order, must submit the proposed order to the court with an original, a copy for the court, and sufficient copies and addressed, stamped envelopes for all parties and other persons entitled to service of the order. The clerk will mail the order and provide a proof of service for the record.

**(e) Definition of Dispositive Order.** For purposes of this Rule, "dispositive order" means an order disposing of a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by a defendant, to suppress evidence in a criminal case, to certify or decertify a class, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action, whether the order grants or denies the motion in whole or in part.

**COMMENT:** In (b), the movant is responsible for service even if the movant does not prevail, in whole or in part.

In (c), the initiating person carries the same burden as the movant in (b). No proof of service is necessary because the order follows a stipulation.

In (d), the preparer includes the court. If the court prepares the dispositive order, then the court provides all documents, envelopes and postage for service. If the court directs a person to prepare the final order, then that person provides copies of the order, envelopes and postage for the court to complete service after the judicial officer signs the order.

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**LR 7.1      Motion Practice****(a)    Seeking Concurrence in Motions and Requests.**

(1)    The movant must ascertain whether the contemplated motion, or request under Federal Rule of Civil Procedure 6(b)(1)(A), will be opposed. If the movant obtains concurrence, the parties or other persons involved may make the subject matter of the contemplated motion or request a matter of record by stipulated order.

(2)    If concurrence is not obtained, the motion or request must state:

(A)    there was a conference between attorneys or unrepresented parties and other persons entitled to be heard on the motion in which the movant explained the nature of the motion or request and its legal basis and requested but did not obtain concurrence in the relief sought; or

(B)    despite reasonable efforts specified in the motion or request, the movant was unable to conduct a conference.

(3)    The court may tax costs for unreasonable withholding of consent.

**(b)    Motions.**

(1)    Motions must comply with LR 5.1.

(2)    A party must obtain leave of court to file more than one motion for summary judgment. For example, a challenge to several counts of a complaint generally must be in a single motion.

**(c)    Responses.**

(1)    A respondent opposing a motion must file a response, including a brief and supporting documents then available.

(2)    Responses must comply with LR 5.1.

(3) A party must obtain leave of court to file more than one response to a motion for summary judgment. For example, a challenge to several arguments raised in a motion for summary judgment generally must be in a single response.

**(d) Briefs.**

**(1) Briefs Required and Permitted.**

(A) Unless the court permits otherwise, each motion and response to a motion must be accompanied by a single brief. The brief may be separate from or may be contained within the motion or response. If contained within the motion or response, the brief must begin on a new page and must be clearly identified as the brief. A movant may also file a reply brief.

(B) Briefs must comply with LR 5.1.

**(2) Form of Required Briefs.** A brief supporting a motion or response must, at the beginning, contain a concise statement of the issues presented and, on the following page, the controlling or most appropriate authority for the relief sought. The brief may contain a table of contents, an index of authorities, and an index of exhibits attached to the brief.

**(3) Length of Briefs.**

(A) The text of a brief supporting a motion or response, including footnotes and signatures, may not exceed 20 pages. A person seeking to file a longer brief may apply *ex parte* in writing setting forth the reasons.

(B) The text of a reply brief, including footnotes and signatures, may not exceed 5 pages.

**(e) Briefing Schedule.**

**(1) Dispositive Motions.**

(A) Dispositive motions are motions:

- for injunctive relief,
- for judgment on the pleadings,
- for summary judgment,
- to dismiss or quash an indictment or information made by a defendant,
- to suppress evidence in a criminal case,
- to certify or decertify a class,
- to dismiss for failure to state a claim upon which relief can be granted, and
- to involuntarily dismiss an action.

(B) A response to a dispositive motion must be filed within 21 days

after service of the motion.

(C) If filed, a reply brief supporting a dispositive motion must be filed within 14 days after service of the response, but not less than 3 days before oral argument.

**(2) Nondispositive Motions.**

(A) Nondispositive motions are motions not listed in LR 7.1(e)(1)(A).

(B) A response to a nondispositive motion must be filed within 14 days after service of the motion.

(C) If filed, a reply brief supporting a nondispositive motion must be filed within 7 days after service of the response, but not less than 3 days before oral argument.

**(f) Hearing on Motions.**

(1) The court will not hold a hearing on a motion for rehearing or reconsideration, a motion for reduction of sentence, or a motion in a civil case where a person is in custody unless the judge orders a hearing.

(2) The court will hold a hearing on all other motions unless the judge orders submission and determination without hearing.

(3) The motion must be filed with the clerk, who will forward it to the assigned judge. The judge will set or cause to be set a date for hearing with notice to the parties and other persons entitled to be heard on the motion. Inquiries regarding time of hearing may be directed to the judge's chambers.

**(g) Additional Time to File Supporting Documents and Brief.**

(1) When a motion, response or written request states that the filing of additional affidavits or other documents in support or opposition is necessary, the assigned judge may specify the time within which the additional documents and brief must be filed by:

(A) entering an *ex parte* order prepared by the person making the request, or

(B) approving a written stipulation.

(2) A person obtaining such an order must immediately:

(A) serve it on opposing parties and other persons entitled to be heard on the motion, and

(B) notify them personally or by telephone, electronic mail, or facsimile

of the signing of the order.

(3) A person against whom an *ex parte* enlargement of time has been granted may immediately move for a dissolution of the order granting enlargement.

**(h) Motions for Rehearing or Reconsideration.**

**(1) Time.** A motion for rehearing or reconsideration must be filed within 14 days after entry of the judgment or order.

**(2) No Response and No Hearing Allowed.** No response to the motion and no oral argument are permitted unless the court orders otherwise.

**(3) Grounds.** Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties and other persons entitled to be heard on the motion have been misled but also show that correcting the defect will result in a different disposition of the case.

**COMMENT:** Federal Rule of Civil Procedure 6(b)(1)(A) permits a person to seek an enlargement of time "with or without motion or notice . . . if a request is made before the original time or its extension expires. . . ." Although the court generally prefers that such relief be sought by stipulation or motion, if a person chooses to seek relief by means of a "request," LR 7.1(a) requires contact with other parties and other persons entitled to be heard on the motion to seek concurrence in the relief requested.

Attempts to circumvent the LR in any way may be considered an abusive practice which may result in the motion or response being stricken as well as sanctions being imposed under LR 11.1.

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The movant must not include a "notice of hearing" unless the judge so directs.

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**LR 58.1 Procedure for Entry of Judgments and Orders**

The court may enter a judgment or order by one of the following methods:

(a) The court may sign the judgment or order at or after the time it grants the relief in the judgment or order.

(b) The court will sign the judgment or order when the parties and any other person entitled to be heard on entry of the judgment or order approve its form.

(c) Within seven days after granting the judgment or order, or later if the court allows, a person seeking entry of a judgment or order may serve a copy of the proposed judgment or order on the other parties and any other person entitled to be heard on entry of the judgment or order, with notice that it will be submitted to the court for signing if no written objections are filed within seven days after service of the notice. The person seeking entry of the judgment or order must file the original and proof of service with the court.

(1) If no written objections are filed within seven days, the court will then sign the judgment or order if, in the court's determination, it comports with the court's decision. If the proposed judgment or order does not comport with the decision, the court will notify the parties and any other person entitled to be heard on entry of the judgment or order to appear before the court on a specified date for settlement of the matter; or, in the court's discretion, the court may enter its own order consistent with the court's decision.

(2) A person filing the objections must serve them on all parties and other persons entitled to be heard on entry of the judgment or order.

(3) If objections are filed, within seven days after receiving notice of the objections, the person who proposed the judgment or order must notice it for settlement before the court.

(d) A person seeking entry of a judgment or order may prepare a proposed judgment or order and notice it for settlement before the court.

**COMMENT:** Pursuant to the recent amendments to Fed. R. Civ. P. 6(a)(1)(B), effective December 1, 2009, the counting of seven days under this rule includes Saturdays, Sundays, and legal holidays.

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## **LR 72.1 United States Magistrate Judges**

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### **(d) Review and Appeal**

(1) Objections under Fed. R. Civ. P. 72 must:

(A) specify the part of the order, proposed findings, recommendations, or report to which a person objects; and

(B) state the basis for the objection.

(2) A person serving objections permitted by Fed. R. Civ. P. 72 must serve



them on the magistrate judge and all parties and other persons entitled to be heard on the matter.

- (3) A person may respond to objections within 14 days of service.
- (4) A person may file a reply brief within 7 days of service of a response.
- (5) LR 7.1 governs the form of objections, responses, and replies.

**COMMENT: \*\*\***

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Effective December 1, 2009, the time to file objections under Fed. R. Civ. P. 72 will change from 10 days to 14 days.

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### **LR 73.1 Special Designation to Exercise Civil Consent Authority**

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**(c) Execution of Consent.** If all of the parties in a civil case consent to have the magistrate judge exercise the authority described in (a), the plaintiff or plaintiff's counsel must file with the clerk the form described in (b), signed by all parties or their attorneys. The clerk will not accept the form without all such signatures, and neither the form nor its contents may be made known or available to a district judge or magistrate judge if it lacks any signatures required under this LR. A party's decision regarding consent will not be communicated to a district judge or magistrate judge before a fully-executed form is filed. Consent in a civil case under (a) may be entered until 28 days before scheduled trial of the case unless otherwise ordered by the district judge.

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**(e) Party Added After Consent Occurs.** A party added to a civil case after reference of the case to a magistrate judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the magistrate judge. The clerk will give the party a copy of the form described in (b). A party choosing to consent must, within 28 days of appearance, file with the clerk the form signed by the party or attorney. The case will be returned to the district judge for all further proceedings unless a form is properly signed and filed.

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### **LR 77.2 Presiding Judge**

**(a) Presiding Judge Calendar (Detroit).** The presiding judge calendar is

compiled by the Chief Judge and is based on the availability of each district judge (including senior judges who consent) in Detroit. The presiding judge normally acts for designated one-week periods. The identity of the presiding judge may not be disclosed before Monday at 8:30 a.m.

**(b) Role of Presiding Judge.** The presiding judge may act in the absence or unavailability of the assigned judge. Since judges often make specific arrangements with other judges to act if they are absent or unavailable, counsel or a person without counsel should always contact the chambers of the assigned judge. If it appears that no such arrangements have been made, counsel or a person without counsel may contact the presiding judge. The first presiding judge to act for the assigned judge concerning any case or matter will hear all other issues arising in the case or matter in the absence or unavailability of the assigned judge. Unless other arrangements have been made, the presiding judge normally presides over naturalization ceremonies.

**(c) Judge Absent or Unavailable.** The presiding judge will be present in the courthouse during business hours through the week assigned as presiding judge. If the presiding judge is absent or unavailable, counsel or a person without counsel should contact the clerk's office to determine if arrangements have been made for another judge to act as presiding judge. If it appears that no such arrangements have been made, the clerk's office will contact judges, beginning with the most senior district judge in Detroit (including senior judges who consent), until an available judge is found to act as presiding judge.

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**COMMENT: \*\*\***

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The designated period referred to in LR 77.2(a) begins at 8:30 a.m. on Monday and ends at 8:30 a.m. on the following Monday.

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**LR 83.20 Attorney Admission**

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**(c) Eligibility for Admission.**

(1) A person who is admitted to practice in a court of record in a state, territory, commonwealth, or possession of the United States, the District of Columbia, or a United States District Court and who is in good standing is eligible for admission to the bar of this court, except as provided in (c)(2). *Pro hac vice* admission is not permitted.

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**(d) Procedure for Admission.**

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(2) An applicant for admission to the bar of this court must submit an original certificate of good standing issued within the last 30 days from a court of record identified in (c)(1).

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**LR 83.22 Attorney Discipline**

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**(e) Discipline by Court After Hearing.**

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**(3) Response.** The respondent must respond to the order to show cause within 21 days from entry of the order. The response must -

**(A)** specifically admit or deny each factual allegation in the order and,

**(B)** state specific facts on which the respondent relies, including all other material dates, places, persons and conduct, and all documents or other supporting evidence not previously filed with the order that are relevant to the charges of misconduct.

**(4) Notice of the Hearing.** The court must give the respondent 21 days written notice of the date and location of the hearing and notice of the respondent's rights under LR 83.22(e)(6)(B).

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**(8) Required Notice on Suspension or Disbarment.** Within 14 days after service of an order suspending or disbarring an attorney under LR 83.22(e)(6)(H), the respondent must:

**(A)** Send a copy of the order to:

(i) the Michigan Attorney Grievance Commission,

(ii) the licensing authority of any other state in which the respondent is licensed to practice law, and

(iii) the clerk of every other federal court in which the respondent is admitted to practice.

(B) Notify each client of the respondent in matters that the disciplinary action may affect of the following:

- (i) the nature and duration of the discipline;
- (ii) the effective date of the discipline;
- (iii) the attorney's inability to act as an attorney in this court after the effective date of the discipline;
- (iv) the location and identity of the custodian of the client's files and records, which will be made available to the client or to substitute counsel;
- (v) that the client may wish to seek legal advice and counsel elsewhere, but, if the attorney was a member of a law firm, the firm may continue to represent the client with the client's express written consent; and
- (vi) the address to which all correspondence to the attorney may be addressed.

(C) In every matter in which the respondent is representing a client in litigation affected by the disciplinary action, send a copy of the order of discipline to all parties and other persons entitled to notice of matters in the litigation.

**(9) Affidavit of Compliance.** Within 14 days after service of an order suspending or disbaring an attorney under LR 83.22(e)(6)(H), the respondent must file an affidavit with the clerk certifying compliance with LR 83.22(e)(8). The affidavit must include as an appendix copies of the disclosure notices required under LR 83.22(e)(8).

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**(g) Discipline by Other Jurisdictions.**

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**(2) Application to Modify Reciprocal Discipline.**

(A) Within 28 days after the effective date of the order of discipline in this court, the attorney may apply to the chief judge for modification or vacation of the discipline.

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**(i) Reinstatement.**

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(5) In addition to payment of the attorney renewal fee, the court may condition reinstatement on--

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(B) partial or complete restitution to the persons harmed by the misconduct that led to disbarment or suspension.

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## **LR E.1      Actions in Rem and Quasi in Rem**

**(a) Advance Deposit for Cost.** The United States Marshal shall collect in advance of the arrest, attachment or garnishment only that amount sufficient to cover the cost of service or process, United States Marshal's insurance and 10 days' keeper and maintenance fees. If the plaintiff is represented by an attorney duly authorized to practice in this District, then the advance deposit for cost may be satisfied by tendering to the United States Marshal a check from the attorney or attorney's firm in the amount of the required deposit. The United States Marshal shall not deliver any property so released until costs and charges of the Court have been paid.

**(b) Custody and Operation of Seized Vessels.** On seizure of a vessel by arrest or attachment, the marshal must appoint as custodian of the vessel the master or other officer in control of the vessel if the master or other officer accepts the responsibilities and liabilities of the appointment. Absent such acceptance, the marshal must make other satisfactory arrangements for the safekeeping of the vessel. The marshal in either event may require the party at whose instance the vessel was seized to pay the fees and costs as incurred. On motion of the plaintiff or another person claiming an interest in the vessel, the court may appoint a different custodian. In that event the person at whose instance the appointment was made must pay the fees and costs as incurred. Unless restriction of the vessel is necessary for its safekeeping, the loading or discharging of cargo or other normal working of the vessel shall not be impeded. The marshal may permit the vessel to be moved from berth to berth within a marine terminal or to a local anchorage within the district without further court order.

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